

**IN THE UNITED STATE DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

V.

CRIMINAL ACTION NO. 2:21-cr-00062-1

LARRY ALLEN CLAY, JR.,

DEFENDANT.

THIRD SUPPLEMENTAL SENTENCING MEMORANDUM

Now comes Defendant, Larry Allen Clay, Jr., by his undersigned counsel, Timothy J. Lafon, and supplements the prior Sentencing Memorandum and Supplemental Sentencing Memorandum and Second Supplemental Sentencing Memorandum previously filed by counsel for the Defendant.

Defense counsel in reviewing the Presentence Report, Defendant's counsel reached the conclusion that U.S.G.G 3A1.3 adjustment proposed by the Probation Department was not applicable in this case. The Probation Department enhanced the sentence by two (2) levels based upon the Defendant forcibly restraining the victim such as being tied, bound or locked up. The Probation Department reaches the conclusion that because this alleged criminal act occurred in a remote area this was implicitly restraint. In addition, the Probation Department claims that the Defendant physically pinned the victim against the police cruiser to force her compliance. The Defendant believes that the above does not constitute restraint nor is there evidence that he physically pinned the victim against the police cruiser to force her compliance.

Therefore, the Defendant believes this enhancement should not be applicable.

LARRY ALLEN CLAY, JR.

By Counsel,

CICCARELLO, DEL GIUDICE & LAFON

By: /s/ Timothy J. LaFon
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Counsel for Defendant

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CERTIFICATE OF SERVICE

I, Timothy J. LaFon, do hereby certify that the foregoing **“THIRD SUPPLEMENTAL SENTENCING MEMORANDUM”** has been served upon all parties via the Court’s electronic filing system on the 17th day of December, 2024

Jennifer Rada Herrald, Assistant U.S. Attorney
U.S. Attorney’s Office
300 Virginia Street, East, Room 400
Charleston, West Virginia 25301

CICCARELLO, DEL GIUDICE & LAFON

By: /s/ Timothy J. LaFon
Timothy J. LaFon (WV #2123)
Counsel for Defendant